

F. #2009R02380

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

HSBC BANK USA, N.A. and
HSBC HOLDINGS PLC,

Defendants.

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MOTION TO DISMISS
INFORMATION

Cr. No. 12-763 (AMD)

MOTION TO DISMISS INFORMATION

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, the United States of America, by and through undersigned counsel, hereby moves to dismiss the criminal information filed in the above-captioned case against the defendants HSBC BANK USA, N.A. and HSBC HOLDINGS PLC (collectively the “HSBC Parties”). As grounds therefore, the United States states as follows:

1. On December 11, 2012, the HSBC Parties waived indictment and the United States filed a criminal information charging the HSBC Parties with violations of the Bank Secrecy Act, International Emergency Economic Powers Act and Trading with the Enemy Act, namely: (a) willfully failing to maintain an effective anti-money laundering program, in violation of Title 31, United States Code, Sections 5318(h) and 5322(b), and the regulations issued thereunder; (b) willfully failing to conduct and maintain due diligence on correspondent bank accounts held on behalf of foreign persons, in violation of Title 31, United States Code, Sections 5318(i) and 5322(d), and the regulations issued thereunder; (c) willfully violating and attempting to violate the International Emergency Economic Powers Act, Title 50, United States Code,

Sections 1702 and 1705, and the regulations issued thereunder; and (d) willfully violating and attempting to violate the Trading with the Enemy Act, Title 50, United States Code Appendix, Sections 3, 5 and 16, and the regulations issued thereunder. Dkt. Entry No. 3-1.

2. On the same date, the United States entered into a five-year deferred prosecution agreement (“DPA”) with the HSBC Parties, which was also filed with the Court on December 11, 2012. Dkt. Entry 3-2. Pursuant to the DPA, if the HSBC Parties fully complied with their obligations under the DPA, the United States would not continue the criminal prosecution against the HSBC Parties and would move to dismiss the criminal information within 30 days from the expiration of the DPA’s five-year term. Id. at ¶ 15.

3. The United States has determined that the HSBC Parties have complied with their obligations under the DPA and that dismissal with prejudice of the criminal information is therefore appropriate pursuant to Paragraph 15 of the DPA.

4. The United States has conferred with counsel for the HSBC Parties, who concurs that dismissal is appropriate at this time.

WHEREFORE, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of the Court, the United States hereby moves to dismiss with prejudice the criminal information filed in the instant case.

Dated: Brooklyn, New York
December 12, 2017

Respectfully submitted,

BRIDGET M. ROHDE
Acting United States Attorney
Eastern District of New York

By: /s/ Alexander A. Solomon
Alexander A. Solomon
Julia Nestor
David Kessler
Assistant United States Attorneys

DEBORAH L. CONNOR
Acting Chief
Money Laundering & Asset Recovery Section
U.S. Department of Justice, Criminal Division

By: /s/ Laura Billings
Laura Billings
Christian J. Nauvel
Trial Attorneys, Bank Integrity Unit

cc: All Counsel of Record (via ECF)

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Upon the unopposed motion of the United States, dated December 11, 2017,
pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, to dismiss the criminal
information in this case, and the Court having fully considered the motion, it is hereby

ORDERED that the Government's motion is granted and the criminal information
in the above-captioned case is hereby dismissed with prejudice.

Dated: December ___, 2017
Brooklyn, New York

ORDER DISMISSING
INFORMATON

Cr. No. 12-763 (AMD)

THE HONORABLE ANN M. DONNELLY
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK